



Department of Energy

Washington, DC 20585

April 16, 1999

Dr. David Bodde
Chairman, Environmental Management Advisory Board
U.S. Department of Energy, Room 5B-171
1000 Independence Avenue S.W.
Washington, D.C. 20585

Dear David:

Thank you for your thoughtful letter dated November 30, 1998, transmitting the Environmental Management Advisory Board (EMAB) Report and Recommendations on Long-Term Stewardship. We apologize for the delayed response but hope that the additional information included will increase the usefulness of this letter for your upcoming meeting.

We continue to support the Board's view that an appropriately-scaled and viable long-term stewardship program will be required. This requirement arises from the fact that most sites have not been, and will not be, cleaned up to unrestricted use standards due to technical and economic considerations. We also recognize that continued input from a variety of viewpoints is critical to the successful development and implementation of a stewardship program that requires long-term coordination between federal, state, and local organizations.

Since the Committee met in July 1998 significant changes have taken place that will affect how the Department approaches long-term stewardship. Principally, the Department has (1) organized an internal long-term stewardship working group, and (2), committed to a study on long-term stewardship as part of a settlement agreement for the Programmatic Environmental Impact Statement (PEIS) lawsuit. This letter summarizes our working group activities, the portion of the settlement agreement regarding long-term stewardship and responds to your recommendations.

DOE Working Group on Long-Term Stewardship

We recently developed a DOE Stewardship Working Group comprised of representatives from Headquarters organizations (including other Secretarial Offices such as Field Management and Environment Safety and Health), field office representatives, and other employees to coordinate activities and ultimately to develop appropriate policy and guidance. Working Group members have begun to seek public input on long-term stewardship issues at their sites. In addition, we are beginning to coordinate with other federal organizations (e.g. EPA and DoD) that are dealing with stewardship issues.

The Working Group has already had significant success in raising awareness of the diversity of issues involved in stewardship among members and in sharing useful technical information. At its first meeting in Salt Lake City the Working Group formed sub-groups on issues such as institutional controls/property transfer, information management, engineered controls, funding, cultural resources and risk. One consensus decision of the Working Group was to develop an outline of recommended elements of an adequate long-term stewardship plan. We believe that this outline will serve as initial guidance for sites in developing long-term stewardship plans.

Lawsuit Settlement

On December 12, 1998, DOE settled its long-standing PEIS lawsuit with the Natural Resources Defense Council (NRDC) and more than 30 other plaintiffs organizations regarding the Programmatic Environmental Impact Statement.¹ Among the requirements of settlement agreement is for DOE to complete a study on long-term stewardship.² Specifically:

DOE will prepare a study on its long-term stewardship activities. By "long-term stewardship," DOE refers to the physical controls, institutions, information and other mechanisms needed to ensure protection of people and the environment at sites where DOE has completed or plans to complete "cleanup" (e.g., landfill closures, remedial actions, removal actions, and facility stabilization). This concept of long-term stewardship includes, *inter alia*, land-use controls, monitoring, maintenance, and information management. While DOE's study on long-term stewardship will not be a NEPA document or its functional equivalent, DOE will, nevertheless, follow the procedures set forth in the regulations of the President's Council on Environmental Quality (CEQ) for public scoping, and the procedures set forth in DOE's NEPA regulations for public review, of environmental impact statements (EIS's, except that (a) DOE will not transmit the study, in draft form, to EPA, and DOE (not EPA) will publish a Notice of Availability in the *Federal Register*; and (b) DOE will not include any Statement of Findings. In the study, DOE will discuss, as appropriate, alternative approaches to long-term stewardship and the environmental consequences associated with those alternative approaches."

EM is currently identifying the path forward for completing this national study, which will require close coordination with field office and headquarters activities related to long-term

¹ Natural Resources Defense Council v. Richardson, Civ. No.97-936 (SS)(1998 Joint Stipulation and Order).

² The other two components of the settlement are for the Department to establish a central Internet database available to the public, and to establish a citizen monitoring and technical assessment fund. The full text of the settlement describing each of these provisions is included as an attachment to this letter.

stewardship. We intend to involve the EMAB, as well as, other stakeholders organizations at the local and national levels in the study.

In addition, we are now finalizing a revised stewardship report, pursuant to our commitment in the "Paths to Closure" (February and June 1998), which will also serve as background information for the scoping meetings on the long-term stewardship study pursuant to this settlement agreement. We expect to complete this background report prior to the scoping process for the broader study in the Spring.

Response to EMAB Recommendations

Recommendation #1: DOE must take action to incorporate long-term stewardship into its local and national remedial action and waste management decisions. Sites need to develop specific stewardship plans that address with specificity issues including information management, compliance with applicable regulations, burdens on future generations, and contingency planning, among others. State, tribal, and local governments and interested stakeholders should have the opportunity to be involved.

During the past year, due in part to the attention that the EMAB has given to the issue, the need to consider long-term stewardship has become more widespread throughout the EM program. A subset of the information you recommended will be collected through the Department's major data initiative, the Integrated Planning, Accountability, and Budgeting System (IPABS). In December, we sent to our field staff an IPABS data requirement document that requests information to help improve long-term stewardship planning. Specifically, for each site, DOE is requesting geographic site endstate information, future geographic site stewardship information, future use, long-term institutional control needs, residual contamination data, and stewardship information (by media type). While sites completing their cleanup projects prior to 2006 will generally possess more definite stewardship information than those sites where cleanup missions extend into the next decade, our goal is that stewardship information reflect the maturity of the cleanup assumptions and cost estimates (i.e. data required for stewardship will improve as sites get closer to cleanup decisions with regulators and stakeholders).

As noted above, the PEIS settlement requires significant public involvement in the stewardship study. We will ensure that forums and other opportunities to participate are provided at both the local and national level. In addition, Secretary Richardson announced in October that EM has entered into a cooperative agreement with the Environmental Law Institute (ELI) and the Energy Communities Alliance (ECA) to conduct research and begin a dialogue regarding local government's role in long-term stewardship at DOE sites. Activities will include assessing local government capabilities for implementing, monitoring, and maintaining institutional controls, defining roles and responsibilities among levels of government, and designing more

effective institutional controls. A successful initial roundtable meeting of local officials was held in Colorado April 8-9, 1999.

Recommendation #2. EM needs to establish a single, adequately staffed organization with responsibility for long-term stewardship research, decisions, and planning.

In August 1998, I reaffirmed the selection of the Grand Junction Office (GO) as the responsible office to implement the Long-Term Surveillance and Maintenance Program for EM at completed low-level radioactive waste disposal sites. Over the last 10 years, GJO has taken custody to 25 sites where DOE has completed cleanup, including the Pinellas site in Florida, the Piqua site in Ohio and a number of UMTRA sites. In addition, GJO has developed expertise in records management, site inspection/monitoring/maintenance, regulatory compliance/reporting, security, and emergency response, and is preparing to take responsibility for the Weldon Spring site in Missouri, in 2002. We will continue to evaluate completed sites to determine if transfer to GJO for long-term stewardship would be cost effective.

Offices at DOE headquarters are working together to develop a comprehensive EM stewardship program. The Office of Planning, Policy and Budget (EM-20) is responsible for developing long-term stewardship policy for EM. This office, in cooperation with other DOE headquarters offices, is completing the stewardship report described above and is in the process of conducting the long-term stewardship study pursuant to the PEIS settlement. The Office of Environmental Restoration (EM-40) has implemented significant portions of EM's stewardship program for the past 10 years through the stewardship activities of Grand Junction Office's Long-Term Surveillance and Monitoring Program, restoration, and decontamination and decommissioning activities. The Office of Site Operations (EM-70) addresses long-term stewardship planning as part of their lead role in the *Accelerating Cleanup: Paths to Closure* process.

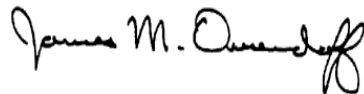
Recommendation #3. DOE needs to take steps to identify, preserve, and, where necessary develop information required to accomplish Recommendations 1 and 2.

DOE agrees that information management is critical to the future success of its stewardship program and to the success of ensuring a successful transition from cleanup to stewardship. As mentioned above, some of the data will be collected through the corporate data set retained in IPABS. Information management will also be a key subcommittee of the Stewardship Working Group noted above. We hope to use this vehicle to begin to develop guidance and implementation procedures for the development of stewardship baselines (i.e. the subset of data that must be maintained after the cleanup projects are complete). We will also continue to consult with the Secretary's Openness Advisory Panel, other federal agencies, and state and local governments to determine the most efficient path forward.

I would like to reiterate the Department's appreciation for the views and recommendations presented by the Long-Term Stewardship Committee. Although much work remains, the Department is making progress on addressing issues associated with many of these recommendations and will keep the Committee informed and involved with additional efforts related to long-term stewardship.

If you need additional information, please contact Jim Werner (202/586-9280) or Steven Livingstone (202/586-9874), of my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Owendoff". The signature is fluid and cursive, with a large, stylized "J" and "O".

James M. Owendoff
Acting Assistant Secretary for Environmental
Management